

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 05-10136-RGS
)	
MARK NUTTER)	

GOVERNMENT'S AMENDED SUMMARY OF TESTIMONY TO
BE OFFERED UNDER FED. R. EVID. 702

The United States of America, by and through Assistant United States Attorneys William H. Connolly and James P. Dowden respectfully submits this amended summary of expert testimony it expects to elicit at trial and the qualifications of the testifying witnesses. The lone amendment is highlighted below.

1. Richard J. Pacheco, Forensic Locksmith

A. Summary of Anticipated Testimony

Richard Pacheco will testify that the overhead door to 161D Mid Tech Drive showed no signs of prying or other indicators of forced entry. He will also testify that both the pedestrian door and pedestrian door jam at 161D Mid Tech Drive showed no signs of being forced open. He will further testify that the lock on the pedestrian entry door to 161D Mid Tech Drive displayed no signs of being forced, pricked or tampered with in a manner that would be consistent with the lock being bypassed. Moreover, he will testify that the key to said lock worked smoothly and freely and that the key both entered and could be removed from the lock

without restriction or hesitation.

Richard J. Pacheco will also testify that the burn patterns throughout the unit and on the overhead and pedestrian doors to the building are consistent with these doors being closed during the fire.

B. Qualifications and Basis for Opinion

Richard Pacheco's qualifications are attached at Exhibit A.

2. Trooper Patricia Beehan, Massachusetts State Police

A. Summary of Anticipated Testimony

Trooper Beehan will testify as an expert in latent fingerprint identification. She will testify that following the fire at 161D Mid Tech Drive, she examined (1) the five red plastic gas containers found in the unit, (2) the note that was left on the exterior mailbox to the unit, and (3) the business card that Defendant Mark Nutter retrieved from his home following the fire. She will testify that there was insufficient fingerprint ridge detail on all of these items to permit a comparison with the known fingerprints of any individual.

B. Qualifications and Basis for Opinion

Trooper Beehan is a twenty-one (21) year veteran of the Massachusetts State Police. She has served as a crime scene investigator for thirteen (13) years. Trooper Beehan has received basic and advanced training from the Federal Bureau of Investigation in both finger printing and palm printing. She has

also received training on the job in fingerprint identification from crime scene investigations.

During her years with the Massachusetts State Police, Trooper Beehan has investigated close to 1000 crime scenes, including scenes involving fingerprints. She has been qualified and has testified as a fingerprint identification expert in Norfolk, Barnstable, Bristol and Plymouth Superior Courts.

3. Sergeant Paul Letsche, Massachusetts State Police

A. Summary of Anticipated Testimony

Trooper Letsche will testify consistent with his report in Case No. 2003-117-1384. A copy of that report has been provided to defense counsel. In particular, Trooper Letsche will testify as to the origin and cause of the fire at 161D Mid Tech Drive. He will testify that the burn patterns throughout the building are consistent with that of liquid pour patterns. He will opine that the fire was the result of a deliberate act and incendiary in nature. He will further opine that the most probable cause of the fire was an open flame ignition with gasoline that was poured throughout the building. Trooper Letsche will also testify that the burn patterns throughout the unit and on the overhead and pedestrian doors to the building are consistent with these doors being closed during the fire.

B. Qualifications and Bases for Opinions

Sergeant Letsche's qualifications attached at Exhibit B.

4. Trooper Michael S. Mazza, Massachusetts State Police

A. Summary of Anticipated Testimony

Trooper Mazza will testify consistent with his report dated April 14, 2005 as an expert in the origin and cause of fire. A copy of this report has been previously provided to defense counsel. He will testify as to the numerous K-9 alerts for the presence of ignitable liquids in the first floor interior workspace of 161D Mid Tech Drive and the second floor office. He will further testify as to the presence of gas containers in the both the first floor and second floor office area. Trooper Mazza will opine that the fire was the result of a deliberate act and incendiary in nature. He will also opine that the most probable cause of the fire was an open flame ignition with gasoline that was poured throughout the building. It is further anticipated that Trooper Mazza will also testify that the burn patterns throughout the unit and on the overhead and pedestrian doors to the building are consistent with these doors being closed during the fire.

B. Qualifications and Basis for Opinions

Trooper Mazza's qualifications attached at Exhibit C.

5. John E. Drugan, Senior Chemist, Massachusetts State Police

A. Summary of Anticipated Testimony

John Drugan will testify consistent with his report dated November 28, 2003. A copy of this report has been provided to

defense counsel. Mr. Drugan will testify as to the chemical analysis he performed on the three samples taken from the interior of 161D Mid Tech Drive following the fire. He will testify that each of these samples tested positive for the presence of #2 fuel oil (diesel fuel) - a common ignitable liquid and fire accelerant.

B. Qualifications and Basis for Opinions

Mr. Drugan's qualifications attached at Exhibit D.

5. Paul Mahoney, Insurance Investigator

A. Summary of Anticipated Testimony

Mr. Mahoney will testify as an expert as to the origin and cause of the fire at 161D Mid Tech Drive. He will testify that the fire was incendiary in nature and intentionally set. He is further expected to testify that the burn patterns throughout the unit and on the overhead and pedestrian doors to the building are consistent with these doors being closed during the fire. Mr. Mahoney is also expected to testify that the pedestrian door at 161D Mid Tech Drive showed no signs of being forced open. He will further testify that the lock on the door displayed no signs of being forced, pricked or tampered with in a manner that would be consistent with the lock being bypassed. Moreover, he will testify that the key to said lock worked smoothly and freely and that the key both entered and could be removed from the lock without restriction or hesitation

B. Qualifications and Basis for Opinions

A copy of Mr. Mahoney's CV will be forwarded to counsel for the defendant and the Court when it is received.

Respectfully submitted,

Michael J. Sullivan
United States Attorney

Date: November 6, 2007

By: /s/ James P. Dowden
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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent to those indicated as non-registered participants on November 6, 2007.

/s/ James P. Dowden

James P. Dowden

Assistant U.S. Attorney